

DATED

17th February

2006

(1) TRIANGLE EXTENSION'S LIMITED

and

**(2) THE MAYOR AND BURGESSES OF
THE LONDON BOROUGH OF CAMDEN**

A G R E E M E N T
relating to land known as
LAND ADJACENT TO STABLES MARKET
(SITE/BUILDING D)
pursuant to Section 106 of the Town and Country Planning
Act 1990 (as amended)

Alison Lowton
Borough Solicitor
London Borough of Camden
Town Hall
Judd Street
London WC1H 9LP

Tel: 020 7974 1918
Fax: 020 7974 2962

S:\plan\lmm\s106 Agreements/Stables Market Bldg D (TCC, EC, TP, SMP, OSH) 3rd appln
REF: CLS/COM/LMM/1431.261



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THIS AGREEMENT is made the 17th day of February 2006

B E T W E E N:

1. **TRIANGLE EXTENSION'S LIMITED** (a company incorporated in the British Virgin Islands) (Company Registration Number 667033) whose registered office is at PO Box 3152 Road Town Tortola British Virgin Islands and whose address for service in the United Kingdom is at the Tack Room Stables Market Chalk Farm Road London NW1 8AH and/or care of Howard Kennedy 19 Cavendish Square London W1A 2AW (reference GDJ1/23896.3) (or such other legal practice written details of which have been given to the Council in writing) (hereinafter called "the Owner") of the first part
2. **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London WC1H 9LP (hereinafter called "the Council") of the third part

WHEREAS

- 1.1 The Owner is entitled to be registered at HM Land Registry as the freehold proprietor with Title absolute of the Property.
- 1.2 The Owner is the freehold owner of and is interested in the Property for the purposes of Section 106 of the Act.
- 1.3 A Planning Application for the Development of the Property was submitted to the Council and validated on 28th November 2005 and the Council resolved to grant permission conditionally under reference number 2005/4882/P subject to conclusion of this legal Agreement.
- 1.4 An Application for Listed Building Consent for the Development of the Property was submitted to the Council and validated on 28th November 2005 and the Council granted consent under reference number 2005/4884/L.

- 1.5 The Council is the local planning authority for the purposes of the Act and for the area within which the Property is situated and for the purposes of enforcing planning obligations pursuant to Section 106 of the Act.
- 1.6 The Council considers it expedient in the interests of the proper planning of its area that the development of the Property should be restricted or regulated in accordance with this Agreement.
- 1.7 For that purpose the Owner is willing to enter into this Agreement pursuant to the provisions of Section 106 of the Act.

2. **DEFINITIONS**

In this Agreement the following expressions (arranged in alphabetical order) shall unless the context otherwise requires have the following meanings:-

- 2.1 "the Act" the Town and Country Planning Act 1990 (as amended)
- 2.2 "the Agreement" this Planning Obligation made pursuant to Section 106 of the Act
- 2.3 "the Agreement for Sale" an Agreement dated 4th January 2006 and made between (1) Safeway Stores Limited (2) the Owner (3) Camden Market Estates Holdings and (4) Camden Market Estates Arches Limited
- 2.4 "the Application for Listed Building Consent" an application for Listed Building Consent in respect of the Development of the Property submitted to the Council and validated on 28th November 2005 for which a resolution to grant consent has been passed conditionally under reference number 2005/4884/L subject to conclusion of this Agreement

2.5 "the Development"

(i) Planning Permission

creation of a new level of retail below ground including the creation of 3 new openings to horse tunnel brickwork and erection of a pod for exit in Morrisons car park at upper ground floor level including reinstatement of the car park as shown on Site location plan - P_001 rev B; P-002 rev C; 004 rev C; 005 rev D; 006 rev A; 007 rev B; P-08 rev A; 010 rev D; 011 rev C; letter dated 30/06/2005; floor area and housing comparison table; ORC report dated June 2005; delivery management strategy; green travel plan; supporting information; archaeological watching brief and listed building consent decision notice

(ii) Listed Building Consent

The general repair and creation of new openings in horse tunnel brickwork as shown on Site location plan; photo sheet x 1; delivery management strategy; supporting information; ORC report dated March 2005, ESA letter dated 18/03/2005; ESA letter dated 04/05/2005; ESA letter dated 11/05/2005; Walsh Associates letter dated 20/04/2005; PL/002 rev B; P_003 rev B; 004 rev B; 005 rev C; 006 rev A; 010 rev C; 03074_4_P_08 rev A and 011 rev B

2.6 "the Financial Contributions"

the Transport Infrastructure Contribution and the Town Centre Management Contribution

2.7 "the Implementation Date"

the date of implementation of the Development by the carrying out of a material operation as defined in Section 56 of the Act and references to "Implementation" and "Implement" shall be construed accordingly

2.8 "Listed Building Consent"

a listed building consent granted for the Development a copy of which is annexed hereto

2.9 "Occupation Date"

the first date when any part of the Development is occupied (which for the avoidance of doubt shall not include occupation for purposes of construction fitting out either of the Development or of the Off-Site Housing) and the phrases "Occupy" "Occupied" and "Occupation" shall be construed accordingly

2.10 "Off-Site Housing"

new residential units of Housing to be created in connection with this Agreement the use of such units to be secured so that in their totality they meet the following requirements (unless otherwise agreed by the Council in accordance with the requirements of this Agreement):-

- (i) total area of off-site units to comprise not less than 652 square metres of net internal floorspace (excluding communal areas)
- (ii) all units to be "new" residential units i.e. not consisting of units currently in housing use or created out of existing housing accommodation
- (iii) all units to be located within the Camden Town with Primrose Hill Cantelows Haverstock or Kentish Town Wards within the Council's borough or elsewhere as may be agreed by the Council in writing

2.11 "the Parties"

mean the Council and the Owner

- 2.12 "Plan 1" the drawing marked "Plan 1" annexed hereto
- 2.13 "Plan 2" the drawing marked "Plan 2" annexed hereto
- 2.14 "the Planning Application" a planning application in respect of the Development of the Property submitted to the Council and validated on 28th November 2005 for which a resolution to grant permission has been passed conditionally under reference number 2005/4882/P subject to conclusion of this Agreement
- 2.15 "Planning Obligations Monitoring Officer" a planning officer of the Council from time to time allocated to deal with all planning obligations pursuant to S106 of the Act to whom all notices correspondence approvals etc must be sent in the manner prescribed at clause 6.1 hereof
- 2.16 "the Planning Permission" a planning permission granted for the Development substantially in the draft form annexed hereto
- 2.17 "the Property" the land known as land adjacent to Stables Market (site/building D) London NW1 the same as shown shaded grey on Plan 1 annexed hereto but for the avoidance of doubt shall not include the surface of the car park or other land to be leased back to Safeway Stores Limited pursuant to the provisions of the Agreement for Sale such excluded land shown shaded red on Plan 2
- 2.18 "the Service Management Plan" the plan appended to the Second Schedule hereto for the management of the deliveries and

servicing to the retail element of the Development securing the minimisation of service vehicle and car conflicts and damage to amenity arising from such servicing and deliveries

2.19 "the Transfer Infrastructure Contribution"

the sum of £30,000 (thirty thousand pounds) to be applied by the Council in the event of receipt towards the improvement of underground and or railway stations in the vicinity of the Property with a view to inter alia improving conditions for travellers

2.20 "the Travel Plan"

the plan appended to the First Schedule hereto setting out a package of measures to be adopted by the Owner in the management of the Development with a view to inter alia reducing trips in motor vehicles to and from the Development and promoting the use of sustainable forms of transport

2.21 "the Town Centre Management Contribution"

the sum of £15,000 (fifteen thousand pounds) to be applied by the Council in the event of receipt to the Council's Town Centre Management Scheme

2.22 "the Town Centre Management Scheme"

a joint initiative by representatives of the local business community and residents and elected councillors co-ordinated by the Town Centre Manager to implement projects seeking to improve the physical environment and image of Camden Town and to attract investment to the area

NOW THIS DEED WITNESSETH as follows:-

- 3.1 This Agreement is made in pursuance of Section 106 of the Act, and is a planning obligation for the purposes of Section 106 as aforesaid, and shall be enforceable by the Council against the Owner as provided herein and against any person deriving title to any part of the Property (which for the avoidance of doubt shall not include the surface of the car park or other land to be leased back to Safeway Stores Limited pursuant to the provisions of the Agreement for Sale) from the Owner and insofar as it is not a planning obligation its provisions may be enforceable by the Council under any relevant statutory powers.
- 3.2 Words importing the singular shall include the plural and vice versa and any words denoting actual persons shall include companies corporations and other artificial persons.
- 3.3 Any reference to a specific statute or statutes include any statutory extension or modification amendment or re-enactment of such statute and any regulation or orders made under such statute.
- 3.4 The clause and paragraph headings do not form part of this Agreement and shall not be taken into account in its construction or interpretation.
- 3.5 It is hereby agreed between the Parties that save for the provisions of clauses 1, 2, 3, 5, 6, 7 and 8 hereof all of which shall come into effect on the date hereof the covenants undertakings and obligations contained within this Agreement shall become binding upon the Owner upon the Implementation Date.
- 3.6 The Council hereby agrees to grant the Planning Permission and the Listed Building Consent at the date hereto.
- 3.7 The Parties save where the context states otherwise shall include their successors in title.
- 3.8 Any notification approval certificate confirmation or expression of satisfaction to be given under this Agreement shall not be unreasonably withheld or delayed.

4. OBLIGATIONS OF THE OWNER

The Owner hereby covenant with the Council as follows:-

4.1 FINANCIAL CONTRIBUTIONS

4.1.1 On or prior to Implementation to pay to the Council the Transport Infrastructure Contribution.

4.1.2 To pay the Town Centre Management Contribution as follows:

- (i) £10,000 (ten thousand pounds) on or prior to the Implementation Date
- (ii) £5,000 (five thousand pounds) within 12 months of the Implementation Date

4.1.3 Not to Implement or to permit Implementation until such time as the Council has received the Financial Contributions in accordance with Clauses 4.1.1 and 4.1.2(i) of this Agreement.

4.2 TRAVEL PLAN

4.2.1 Not to Occupy or permit Occupation of any part of the Development at any time when the Development is not being managed in strict accordance with the Travel Plan as approved by the Council and shall not Occupy or permit Occupation of the Development otherwise than in strict accordance with the requirements of the Travel Plan.

4.3 SERVICE MANAGEMENT PLAN

4.3.1 Not to Occupy or permit Occupation of any part of the Development at any time when the Development is not being managed in strict accordance with the Service Management Plan as approved by the Council and shall not occupy or permit occupation of the Development otherwise than in strict accordance with the requirements of the Service Management Plan.

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4.4 OFF-SITE HOUSING

4.4.1 Not to Occupy or permit Occupation of any part of the Development until such time as the Owner has obtained written confirmation from the Council that in the reasonable opinion of the Council the Owner has identified a site or a number of sites capable of forming the whole of the Off-Site Housing Provision and submitted full details of such sites to the Council for approval these to include details of the following:-

- (i) the name and location of the sites;
- (ii) the planning status of the said sites;
- (iii) ownership details of the identified sites;
- (iv) an account of the suitability of the said sites for accommodating the Off-Site Housing as provided for under this Agreement;
- (v) indicative design of the proposals;
- (vi) such further information as the Council may reasonably require.

ALWAYS PROVIDED, for the avoidance of doubt, that notwithstanding the provisions of this Agreement, the Parties acknowledge that it is the Council's standard requirement that all details identified in sub-clauses (i) to (vi) inclusive shall be approved by the Council prior to the Implementation Date of the Development

4.4.2 Not to Occupy or permit Occupation of any part of the Development until such time as the Owner has obtained written confirmation from the Council that in the reasonable opinion of the Council each and every of the following steps have been carried out and completed:-

4.4.2.1 the sites identified by the Owner as being capable of accommodating the Off Site Housing have been approved in writing by the Council under the provisions of this Agreement as sites, which in the reasonable opinion of the Council are suitable for accommodating the total floorspace of the Off-Site

Housing and once sites comprising the total floorspace required to meet the floorspace requirements of the Off-Site Housing have been approved, such approved sites shall be known collectively as "the Off-Site Housing Sites".



4.4.2.2 in respect of each and every site forming part of the Off-Site Housing Sites the Owner and/or owner of the Off-Site Housing Sites has applied for and been granted planning permission enabling the construction of the approved Off-Site Housing.

ALWAYS PROVIDED, for the avoidance of doubt, that notwithstanding the provisions of this Agreement, the Parties acknowledge that it is the Council's standard requirement that all consents and permissions necessary to meet Section 106 Agreement obligations relating to off-site housing provisions shall be secured prior to the Implementation Date of the Development.

4.4.3 Within three years of Occupation of the Development to ensure the Off Site Housing has been fully implemented and completed and the Owner has received written notice from the Council that in the reasonable opinion of the Council the Owner has demonstrated to the Council's reasonable satisfaction that the Owner has carried out or secured the carrying out at its own expense of all works of construction, conversion and fitting out necessary to make all of the sites incorporated in the Off-Site Housing Sites (as approved) suitable for use as Housing in accordance with a specification to be provided by the Owner and agreed by the Council have been completed in a good and workmanlike manner ALWAYS PROVIDED, for the avoidance of doubt, that notwithstanding the provisions of this Agreement, the Parties acknowledge that it is the Council's standard requirement that that all works of construction necessary to meet Section 106 Agreement obligations relating to off-site housing provisions shall be completed and secured prior to the Occupation Date of the Development.

5. NOTICE TO THE COUNCIL/OTHER MATTERS

5.1 The Owner shall give written notice to the Council on or prior to the Implementation Date specifying that Implementation of the Development has taken or is about to take place.

- 5.2 Within 7 days following completion of the Development the Owner shall certify in writing to the Planning Obligations Monitoring Officer in the manner outlined at clause 6.1 hereof quoting planning reference 2005/2698/P the date upon which the Development is ready for occupation. ⁴⁸⁸² 
- 5.3 The Owner shall act in good faith and shall co-operate with the Council to facilitate the discharge and performance of all obligations contained herein and the Owner shall comply with any reasonable requests of the Council to have access to any part of the Property or any requests to provide documentation within the Owner's possession (at the Owner's expense) for the purposes of monitoring compliance with the obligations contained herein.
- 5.4 The Owner agrees declares and covenants with the Council that it shall observe and perform the conditions restrictions and other matters mentioned herein and shall not make any claim for compensation in respect of any condition restriction or provision imposed by this Agreement and further shall indemnify the Council for any expenses or liability arising to the Council in respect of breach by the Owner of any obligations contained herein save to the extent that any act or omission of the Council its employees or agents has caused or contributed to such expenses or liability.
- 5.5 Payment of the Contribution pursuant to Clause 4.1 of this Agreement shall be made by the Owner to the Council sending the full amount stated in the form of a Banker's Draft to the Planning Obligations Monitoring Officer referring to the names dates and Parties to this Agreement and citing the specific clause of this Agreement to which such Contribution relates quoting the Income Code ZL892ZL065 or by Electronic Transfer directly to the Co-Operative Bank plc of 1 Islington High Street London N1 9TR quoting Sort Code 08-90-33 and London Borough of Camden General Account No. 61030019 and to inform the Planning Obligations Monitoring Officer of such payment quoting the above details as if the payment had been made by Banker's Draft.
- 5.6 All consideration given in accordance with the terms of this Agreement shall be exclusive of any value added tax properly payable in respect thereof and all parties other than the Council shall pay and indemnify the Council against any such value added tax properly payable on any sums paid to the Council under this Agreement
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upon presentation of an appropriate value added tax invoice addressed to the Owner.

- 5.7 Any sums referred to in this Agreement as payable or to be applied by any party other than the Council under this Agreement shall be paid or applied TOGETHER WITH if such payment or application is made more than three months from the date of this Agreement a further sum ("A") being equal to the original sum payable ("B") multiplied by a figure being a fraction of which the All Items of Retail Prices ("the AIIRP") figure last published by the Central Statistical Office at the date hereof is the denominator ("X") and the last AIIRP figure published before the date such payment or application is made ("Y") less the last published AIIRP figure at the date hereof ("X") is the numerator so that:-

$$A = B \times \frac{(Y-X)}{X}$$

- 5.8 All costs and expenses payable to or by the Council under this Agreement shall bear interest at the rate of 4% above the Base Rate of the National Westminster Bank plc from time to time being charged from the date such payment is due until payment is made.

6. **IT IS HEREBY AGREED AND DECLARED** by the Parties hereto that:-

- 6.1 The provisions of Section 196 of the Law of Property Act 1925 (as amended) shall apply to any notice or approval or agreement to be served under or in connection with this Agreement and any such notice or approval shall be in writing and shall specifically refer to the name, date and Parties to the Agreement and shall cite the clause of the Agreement to which it relates and in the case of notice to the Council shall be addressed to the London Borough of Camden, Planning Obligations Officer, Forward Planning and Projects Team, Planning Division Environment Department, Town Hall Annex, Argyle Street, London WC1H 9LP quoting the planning reference number 2005/2698/P and in the case of any notice or approval or agreement from the Council this shall be signed by a representative of the Council's Environment Department.

- 6.2 This Agreement shall be registered as a Local Land Charge.
- 6.3 The Owner agrees to pay the Council its proper and reasonable legal costs incurred in preparing this Agreement on or prior to the date of completion of the Agreement.
- 6.4 The Owner hereby covenants with the Council that it will within 60 days from the date hereof apply to the Chief Land Registrar of HM Land Registry to register this Agreement in the Charges Register of the title to the Property (but for the avoidance of doubt shall not include the surface of the car park or other land to be leased back to Safeway Stores Limited pursuant to the provisions of the Agreement for Sale) and will furnish the Council forthwith on written demand with official copies of such title to show the entry of this Agreement in the Charges Register of the title to the Property provided that the Owner shall be entitled to remove the said entry in the event that Planning Permission or Listed Building Consent is quashed or revoked or otherwise withdrawn or is modified by any statutory procedure or lapses without Implementation and in such even the Council shall assist the Owner with any application to the Land Registry for the removal of the said entry.
- 6.5 Nothing contained or implied in this Agreement shall prejudice or affect the Council's powers to enforce any specific obligation term or condition nor shall anything contained or implied herein prejudice or affect any provisions, rights, powers, duties and obligations of the Council in the exercise of its functions as Local Planning Authority for the purposes of the Act or as a local authority generally and its rights, powers, duties and obligations under all public and private statutes, bye laws and regulations may be as fully and effectually exercised as if the Council were not a party to this Agreement.
- 6.6 Neither the Owner nor its successors in title nor any person deriving title from the Owner shall be bound by the obligations in this Agreement in respect of any period during which it no longer has an interest in the Property but without prejudice to liability for any breach committed prior to the time it disposed of its interest.
- 6.7 For the avoidance of doubt the provisions of this Agreement (other than those contained in this sub-clause) shall not have any effect until this Agreement has been dated.



6.8 If the Planning Permission or Listed Building Consent is quashed or revoked or otherwise withdrawn or expires before effluxion of time for the commencement of development or is modified (other than by agreement with or at the request of the Owner) this Agreement shall forthwith determine and cease to have effect and the Council will effect cancellation of all entries made in the Register of Local Land Charges in respect of this Agreement.

6.9 Nothing in this Agreement shall be construed as affecting prohibiting or limiting any rights to develop any part of the Property in accordance with any other planning permission granted whether before or after the date of this Agreement by the Council or the Secretary of State for the Department for Transport Local Government and the Regions or any other competent authority.

7. The Council covenants with the Owner to apply the Financial Contributions solely for the purpose for which such Financial Contributions have been made and for no other purpose.

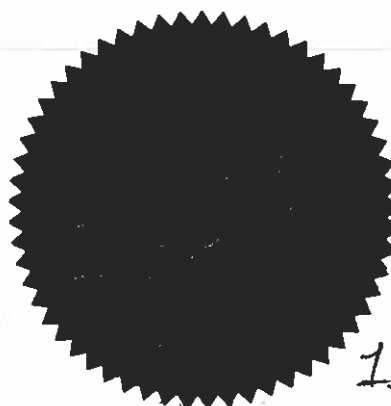
8. The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement

IN WITNESS whereof the Council has caused its Common Seal to be hereunto affixed and the Owner has executed this instrument as their Deed the day and year first before written

EXECUTED AS A DEED BY)
TRIANGLE EXTENSION'S LIMITED)
acting by a Director and its Secretary)
or by two Directors)


.....
Director

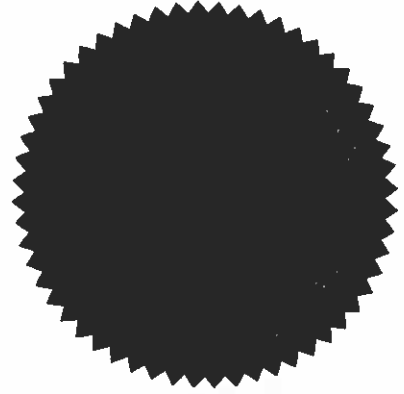
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Director/Secretary



CONTINUATION OF SECTION 106 AGREEMENT IN RELATION TO
LAND ADJACENT TO STABLES MARKET (BUILDING/SITE D)

THE COMMON SEAL OF THE MAYOR)
AND BURGESSES OF THE LONDON)
BOROUGH OF CAMDEN was hereunto)
Affixed by Order:-)


.....
Authorised Signatory



A small, handwritten signature or mark located in the bottom right corner of the page.



PLAN 1

Application No: 2005/4882/P

Land adjacent to Stables Market (site/building D)
London
NW1

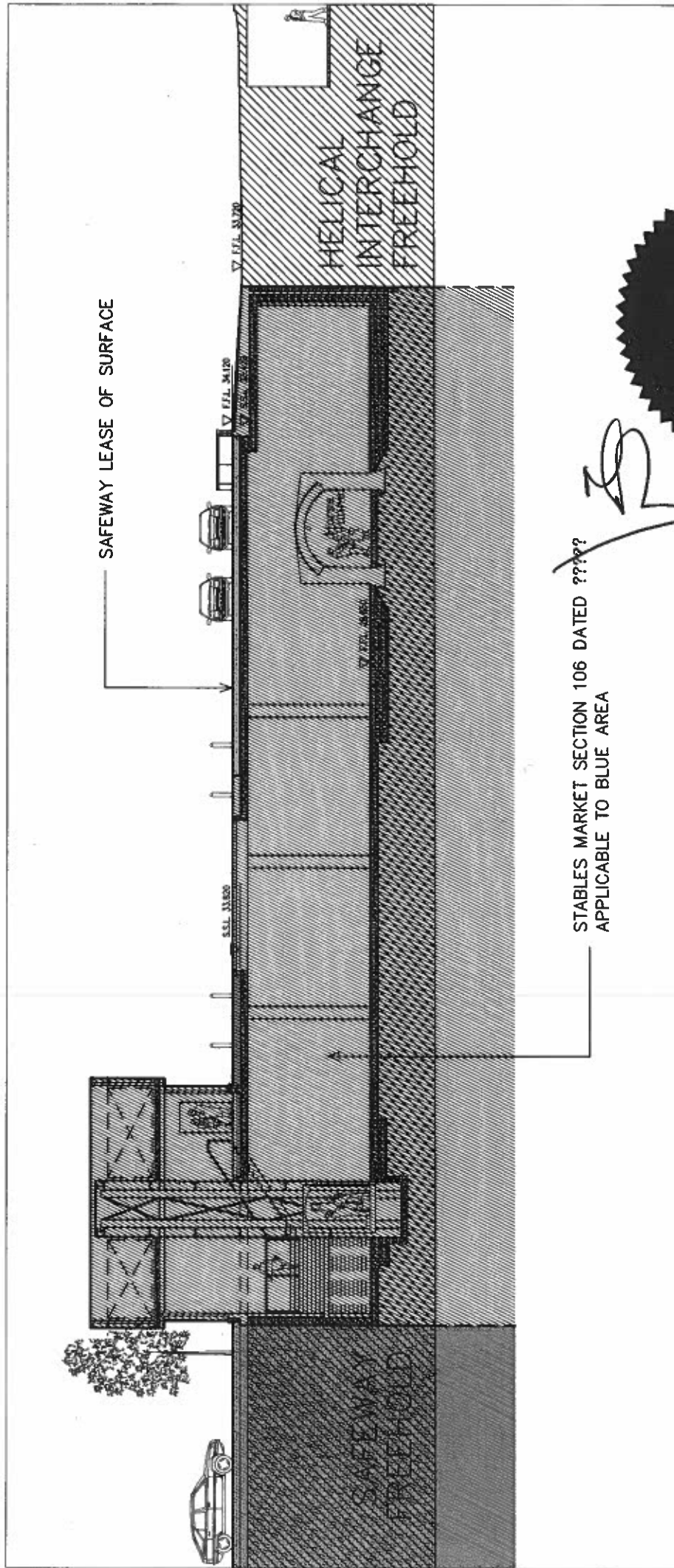
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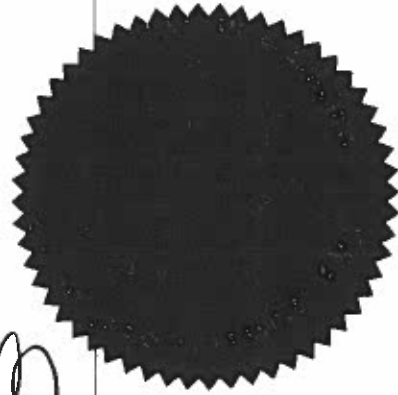
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PLAN 2



STABLES MARKET SECTION 106 DATED ????

APPLICABLE TO BLUE AREA



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